

Bay Area Air Quality Management District
375 Beale Street, Suite 600
San Francisco, CA 94105
(415) 749-5073

Board of Directors Regular Meeting
Wednesday, December 7, 2022

APPROVED MINUTES

*Note: Audio recordings of the meeting are available on the website of the
Bay Area Air Quality Management District at
www.baaqmd.gov/bodagendas*

This meeting was conducted under procedures authorized by Assembly Bill 361 (Rivas 2021) allowing remote meetings. Members of the Board of Directors participated both by teleconference (via Zoom) and in person.

CALL TO ORDER

1. **Opening Comments:** Board of Directors (Board) Chairperson, John J. Bauters, called the meeting to order at 9:01 a.m.

Roll Call:

Present: Chairperson John J. Bauters; Vice Chairperson Davina Hurt; Secretary Teresa Barrett; and Directors Margaret Abe-Koga, John Gioia, Carole Groom (Zoom), Erin Hannigan, David Haubert, Lynda Hopkins, David Hudson, Tyrone Jue, Otto Lee, Sergio Lopez, Myrna Melgar, Nate Miley, Karen Mitchoff (Zoom), Rob Rennie, Katie Rice, Mark Ross (Zoom), Brad Wagenknecht, Shamann Walton, and Steve Young.

Absent: Directors David Canepa and Pauline Russo Cutter.

2. **PLEDGE OF ALLEGIANCE**
3. **PUBLIC MEETING PROCEDURE**
4. **SPECIAL ORDERS OF THE DAY**

Chair Bauters introduced recently hired Air District employees, Alexandra Kamel, Assistant Counsel II; Somerset Perry, Assistant Counsel II; and Misha Nishiki, Assistant Counsel I (returning to the Air District.)

CONSENT CALENDAR (Items 5 – 23)

5. Remote Teleconferencing per Assembly Bill (AB) 361

6. Approval of the Minutes of November 2, 2022
7. Board Communications Received from November 2, 2022, through December 6, 2022
8. Authorization to Execute a Contract with Lores Maintenance
9. Notices of Violations Issued and Penalty Settlements in Excess of \$10,000 in the Month of October 2022
10. Authorization to Amend Signature Authority for San Mateo County Treasurer
11. Notice of Proposed Amendments to Division I, Sections 1.1 and 1.2, of the Administrative Code Regarding Board Member Compensation for Meeting Attendance and Board Meeting Start Time
12. Quarterly Report of the Executive Office and Division Activities for the Months of July 2022 - September 2022
13. Proposed Regulatory Agenda for 2023
14. Authorization to Execute Contract Extension for Support of Grant Program Data Management Systems
15. Report of the Budget and Finance Committee Meeting of October 26, 2022

Consider approval of the following action items recommended by that Committee:

- A. *Funding Policy for the Other Post-Employment Benefits and Pension Funding Policy:*
 - *Approve the Air District's proposed Other Post-Employment Benefits and Pension Funding Policy.*
- B. *California Employers' Pension Prefunding Trust Investment Policy:*
 - *Direct investments in the Air District's California Employers' Pension Prefunding Trust 115 Trust account to use investment strategy 2; and*
 - *Allocate Air District's funds to the California Employers' Pension Prefunding Trust 115 Trust account in 2 tranches:*
 - *Following adoption of the recommendation (1st tranche)*
 - *At the end of Fiscal Year 2023 (2nd tranche).*

16. Report of the Mobile Source & Climate Impacts Committee Meeting of October 27, 2022

Consider approval of the following action items recommended by that Committee:

- A. *Projects and Contracts with Proposed Grant Awards Over \$500,000:*
 - *Approve the recommended projects with proposed grant awards in excess of \$500,000; and*
 - *Authorize the Interim Executive Officer/Air Pollution Control Officer (APCO) execute grant agreements with applicants for the recommended projects.*
- B. *Proposed Updates to the Transportation Fund for Clean Air County Program Manager Fund Policies for Fiscal Year Ending 2024:*
 - *Approve the proposed Transportation Fund for Clean Air County Program Manager Fund Policies for Fiscal Year Ending 2024.*

17. Report of the Administration Committee Meeting of November 2, 2022
18. Report of the Community Equity, Health & Justice Committee Meeting of November 3, 2022
19. Report of the Legislative Committee Meeting of November 14, 2022
20. Report of the Community Advisory Council meeting of November 17, 2022

21. Report of the Stationary Source and Climate Impacts Committee Meeting of November 21, 2022
22. Report of the Budget and Finance Committee Meeting of November 23, 2022

Consider approval of the following action items recommended by that Committee:

A. Cost Recovery and Containment Policy:

- *Adopt the proposed amended Cost Recovery and Containment Policy: A) clarify that the Air District's cost recovery analysis be periodically reviewed by an independent entity; and B) update the cost recovery goals including the 100% cost recovery goal from fee-based activities.*

23. Report of the Mobile Source & Climate Impacts Committee Meeting of November 28, 2022

Consider approval of the following action items recommended by that Committee:

A. Projects and Contracts with Proposed Grant Awards Over \$500,000:

- *Approve projects with proposed grant awards over \$500,000; and*
- *Authorize the Interim Executive Officer/APCO to enter into all necessary agreements with applicants for the recommended projects.*

B. Acceptance of 2022-2023 Carl Moyer Program Funding from the California Air Resources Board:

- *Authorize the Air District to participate in Fiscal Year 2022-2023 Carl Moyer Program;*
- *Adopt a resolution to authorize the Air District's participation in the program; and*
- *Authorize the Interim Executive Officer/APCO to enter into all necessary agreements to accept, obligate, and expend program funds.*

Public Comments

No requests received.

Board Comments

Director Hudson had wanted to pull Item 22 for discussion. He later waived discussion, and Chair Bauters asked whether two Consent Calendar votes would be necessary since Director Hudson planned to vote “no” on Item 22. District Counsel requested that two votes be taken, reflecting that Item 22 was pulled.

Board Action

Director Young made a motion, seconded by Secretary Barrett, to **approve** Consent Calendar Items 5 through 21, and 23; and the motion **carried** by the following vote of the Board:

AYES: Abe-Koga, Bauters, Barrett, Gioia, Groom, Hannigan, Haubert, Hopkins, Hudson, Hurt, Jue, Lee, Lopez, Miley, Mitchoff, Rennie, Rice, Ross, Wagenknecht, Walton, Young.
NOES: None.
ABSTAIN: None.
ABSENT: Canepa, Cutter, Melgar.

Secretary Barrett made a motion, seconded by Director Wagenknecht, to **approve** Consent Calendar Item 22; and the motion **carried** by the following vote of the Board:

AYES: Abe-Koga, Bauters, Barrett, Gioia, Groom, Hannigan, Haubert, Hopkins, Hurt, Jue, Lee, Lopez, Miley, Mitchoff, Rennie, Rice, Ross, Wagenknecht, Walton, Young.
NOES: Hudson.
ABSTAIN: None.
ABSENT: Canepa, Cutter, Melgar.

INFORMATIONAL PRESENTATIONS

24. COP27 REPORT OUT

A video created by the Air District, capturing Air District staff and Board members attending the 2022 United Nations Climate Change Conference - Conference of the Parties (COP) 27, was displayed. Dr. Idania Zamora, Assistant Planning & Climate Protection Manager, Areana Flores, Senior Staff Specialist, Jennifer Elwell, Senior Air Quality Engineer, Chair Bauters, and Vice Chair Hurt all spoke about their experiences at this event.

Public Comments

No requests received.

Board Comments

None.

Committee Action

None; receive and file.

25. UPDATE ON 2022-2023 SPARE THE AIR WINTER SEASON AND SUMMARY OF 2022 SPARE THE AIR SUMMER SEASON

Kristine Roselius, Director in the Communications Office, and Dr. Tim McLarney of True North Research, gave the joint report *2022-2023 Spare the Air Winter Campaign Overview and Summary of 2022 Spare The Air Summer Campaign*, including: outcome; outline; presentation for information only; winter campaign; door-to-door outreach; creative and advertising; commercial; media and social media;

summer campaign; creative and advertising; media and social media; additional outreach; employer program; and survey.

NOTED PRESENT: Director Melgar was noted present at 9:25 a.m.

Public Comments

Public comments were given by Tony Fisher, Coalition for Clean Air.

Board Comments

The Board and staff discussed the fact that woodsmoke is largest contributor of air pollution during the Bay Area's winter season; the perceived influence of a particular former Winter Spare the Air (STA) ad; the number of door hanger Winter STA messaging distributed to residences in West and East Oakland, how those residences are identified, who distributes the door hangers, and whether a digital version exists for the Board members' circulation; whether the results from the 2022 STA survey conducted during the summer campaign indicate how many electric vehicles are being driven by solo drivers; the request that the Air Districts partners with regional transit agencies by promoting their services to increase and restore ridership; whether the Air District has geographical data about whether vehicle miles traveled are being reduced in impacted communities, and how much pollution in these communities is generated by non-residents passing through; whether the Air District can publicize burning violations to the neighbors of the offending residence or facility; whether alternatives to firewood are less hazardous to human health when burned; the request that a list of hazards of wood smoke be circulated to the Board members; the number of Bay Area residents who burn wood as a sole source of heat, versus those who are burning for ambiance; the desire to see all residential woodburning banned; and cognitive impacts related to woodsmoke.

Board Action

None; receive and file.

OTHER BUSINESS

26. PUBLIC COMMENT ON NON-AGENDA MATTERS

Public comments were given by Jan Warren, Interfaith Climate Action Network of Contra Costa County; Alysia Gadde, Martinez resident; Rochele Henderson; Air District employee; Ken Szutu, Citizen Air Monitoring Network of Vallejo; Justin Gomez, Martinez resident; Jerome Shaw; and Charles Davison, Hercules resident.

27. BOARD MEMBERS' COMMENTS

Regarding an incident at the Martinez Refining Company's refinery on Thanksgiving, during which potentially hazardous materials were released, Director Ross said that the incident will be agendized at the City of Martinez City Council meeting of December 7, 2022.

Director Miley requested regular updates on West Oakland Community Action Plan implementation activities the activities of the East Oakland AB 617 Community Steering Committee.

28. **REPORT OF THE INTERIM EXECUTIVE OFFICER/APCO**

Sharon L. Landers, Interim Executive Officer/APCO, made the following announcements:

- At the Air District’s Community Advisory Council meeting on November 17, 2022, the Council endorsed the Air District’s Compliance and Enforcement Division’s scheduling of bi-monthly community meetings, designed to engage the community in enhancing monitoring and enforcement work.
- Regarding the aforementioned incident on Thanksgiving at the Martinez Refining Company’s refinery, the Air District issued a Notice of Violation on December 5, and a subsequent investigation is ongoing.
- Dr. Ranyee Chiang, Director of Meteorology and Measurement, was asked to provide a summary on recent air quality.

29. **CHAIRPERSON’S REPORT**

Chair Bauters announced that regarding recruitment for the Executive Officer/APCO, interviews of several candidates were conducted by several interview panels on November 9, 2022. The interview panels consisted of members of the public, Air District staff and staff from other California air quality regulatory agencies, Board members, and the Air District’s Community Advisory Council. Several candidates were asked to return for second interviews on December 7, 2022. There will be an (open session) item at a future Board meeting, during which public can view the candidates and provide feedback.

30. **TIME AND PLACE OF NEXT MEETING**

Wednesday, December 21, 2022, at 9:00 a.m., via webcast, teleconference, or Zoom, pursuant to procedures in accordance with Assembly Bill 361 (Rivas 2021).

CLOSED SESSION (10:24 a.m.)

31. **CONFERENCE WITH LEGAL COUNSEL RE EXISTING LITIGATION
(GOVERNMENT CODE SECTION 54956.9(a))**

Pursuant to Government Code Section 54956.9(a), the Board will meet in closed session with legal counsel to discuss the following cases:

Chevron U.S.A Inc. v. Bay Area Air Quality Management District, Contra Costa Superior Court Case No. MSN21-1739;

Martinez Refining Co. LLC v. Bay Area Air Quality Management District, Contra Costa Superior Court Case No. MSN21-1568;

The Athletics Investment Group, LLC, v. The Bay Area Air Quality Management District et al. (Schnitzer Steel Industries, Inc., Real Party in Interest), Alameda Superior Court Case No. 22CV010930;

Communities for a Better Environment v. Bay Area Air Quality Management District and McWane Inc., Alameda Superior Court Case No. 22CV020451.

Reportable Action: Chair Bauters had nothing to report except that appropriate action was given to staff.

32. CONFERENCE WITH LEGAL COUNSEL RE ANTICIPATED LITIGATION (GOVERNMENT CODE SECTIONS 54956.9(a) AND (d)(2))

Pursuant to Government Code sections 54956.9(a) and (d)(2), the Board will meet in closed session with legal counsel to discuss a significant exposure to litigation, based on facts and circumstances not known to a potential plaintiff or plaintiffs: Three cases.

Reportable Action: Chair Bauters had nothing to report except that appropriate action was given to staff.

33. PUBLIC EMPLOYEE APPOINTMENT AND EMPLOYMENT PURSUANT TO GOVERNMENT CODE SECTION 54957(b)

Title: Executive Officer/APCO

Reportable Action: Chair Bauters had nothing to report except that appropriate action was given to staff.

34. CONFERENCE WITH LABOR NEGOTIATORS PURSUANT TO GOVERNMENT CODE SECTION 54957.6

*Agency Designated Representatives: Board Chair John J. Bauters; Acting CAO John Chiladakis; and Charles Sakai and DeeAnne Gillick of Sloan, Sakai, Yeung & Wong
Unrepresented Employees: Executive Officer/APCO*

Reportable Action: Chair Bauters had nothing to report except that appropriate action was given to staff.

OPEN SESSION (4:04 p.m.)

35. ADJOURNMENT

The meeting adjourned at 4:06 p.m.

/s/ Marcy Hiratzka

Marcy Hiratzka
Clerk of the Boards